

House Bill 587

By: Representatives Levitas of the 82<sup>nd</sup>, Lindsey of the 54<sup>th</sup>, McCall of the 30<sup>th</sup>, Peake of the 137<sup>th</sup>, Jerguson of the 22<sup>nd</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

To amend Part 2 of Article 5 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to county boards of tax assessors, so as to provide for the comprehensive revision of the appeal of assessments for ad valorem tax purposes; to provide for appeal procedures, conditions, and limitations; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Part 2 of Article 5 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to county boards of tax assessors, is amended by revising Code Section 48-5-311, relating to county boards of equalization and appeals of ad valorem tax assessments, as follows:

"48-5-311.

~~(a) *Establishment.*~~

~~(1) There is established in each county of the state a county board of equalization to consist of three members and three alternate members appointed in the manner and for the term set forth in this Code section. In those counties having more than 10,000 parcels of real property, the county governing authority, by appropriate resolution adopted on or before November 1 of each year, may elect to have selected one additional county board of equalization for each 10,000 parcels of real property in the county or for any part of a number of parcels in the county exceeding 10,000 parcels.~~

~~(2) Notwithstanding any part of this subsection to the contrary, at any time the governing authority of a county makes a request to the grand jury of the county for additional alternate members of boards of equalization, the grand jury shall appoint the number of alternate members so requested to each board of equalization, such number not to exceed a maximum of 21 alternate members for each of the boards. The alternate members of the boards shall be duly qualified and authorized to serve on any of the boards of~~

~~equalization of the county. The grand jury of any such county may designate a chairperson and two vice chairpersons of each such board of equalization. The chairperson and vice chairpersons shall be vested with full administrative authority in calling and conducting the business of the board. Any combination of members or alternate members of any such board of equalization of the county shall be competent to exercise the power and authority of the board. Any person designated as an alternate member of any such board of equalization of the county shall be competent to serve in such capacity as provided in this Code section upon appointment and taking of oath.~~

~~(3) Notwithstanding any provision of this subsection to the contrary, in any county of this state having a population of 400,000 or more according to the United States decennial census of 1990 or any future such census, the governing authority of the county, by appropriate resolution adopted on or before November 1 of each year, may elect to have selected one additional county board of equalization for each 10,000 parcels of real property in the county or for any part of a number of parcels in the county exceeding 10,000 parcels. In addition to the foregoing, any two members of a county board of equalization of the county may decide an appeal from an assessment, notwithstanding any other provisions of this Code section. The decision shall be in writing and signed by at least two members of the board of equalization; and, except for the number of members necessary to decide an appeal, the decision shall conform to the requirements of this Code section.~~

~~(4) Reserved.~~

(a) As used in this Code section, the term:

(1) 'Appraisal,' 'appraisal report,' 'appraiser,' or 'appraiser classification' shall have the same meaning as those terms are defined by general law relating to appraiser licensing.

(2) 'Appraisal valuation' means an estimate by an appraiser of applicable appraiser classification of the value of property based on an appraisal.

(3) 'County's appraisal valuation' or 'county's valuation' means an appraisal valuation or valuation obtained by the board of assessors pursuant to this Code section.

(4) 'Immediate family member' means the spouse, child, stepchild, child's spouse, stepchild's spouse, grandchild, stepgrandchild, grandchild's spouse, stepgrandchild's spouse, parent, stepparent, parent-in-law, sibling-in-law, niece, nephew, stepparent-in-law, sibling, or stepsibling of the seller.

(5) 'Taxpayer's appraisal valuation' or 'taxpayer's valuation' means an appraisal valuation or valuation obtained by a taxpayer pursuant to this Code section.

~~(b) Qualifications.~~

~~(1) Each person who is, in the judgment of the appointing grand jury, qualified and competent to serve as a grand juror, who is the owner of real property, and who is at least~~

~~a high school graduate shall be qualified, competent, and compellable to serve as a member or alternate member of the county board of equalization. No member of the governing authority of a county, municipality, or consolidated government; member of a county or independent board of education; member of the county board of tax assessors; employee of the county board of tax assessors; or county tax appraiser shall be competent to serve as a member or alternate member of the county board of equalization.~~

~~(2)(A) Within the first year after a member's initial appointment to the board of equalization on or after January 1, 1981, each member shall satisfactorily complete not less than 40 hours of instruction in appraisal and equalization processes and procedures, as prepared and required by the commissioner. The failure of any member to fulfill the requirements of this subparagraph shall render that member ineligible to serve on the board, and the vacancy created thereby shall be filled in the same manner as other vacancies on the board are filled.~~

~~(B) No person shall be eligible to hear an appeal as a member of a board of equalization on or after January 1, 1995, unless prior to hearing such appeal, that person shall satisfactorily complete the 40 hours of instruction in appraisal and equalization processes and procedures required under subparagraph (A) of this paragraph. Any person appointed to such board shall be required to complete annually a continuing education requirement of at least eight hours of instruction in appraisal and equalization procedures, as prepared and required by the commissioner. The failure of any member to fulfill the requirements of this subparagraph shall render that member ineligible to serve on the board, and the vacancy created thereby shall be filled in the same manner as other vacancies on the board are filled.~~

~~(e) *Appointment.*~~

~~(1) Except as provided in paragraph (2) of this subsection, each member and alternate member of the county board of equalization shall be appointed for a term of three calendar years next succeeding the date of such member or such alternate member's selection. Each term shall begin on January 1.~~

~~(2) The grand jury in each county at any term of court preceding November 1 of 1991 shall select three persons who are otherwise qualified to serve as members of the county board of equalization and shall also select three persons who are otherwise qualified to serve as alternate members of the county board of equalization. The three individuals selected as alternates shall be designated as alternate one, alternate two, and alternate three, with the most recent appointee being alternate number three, the next most recent appointee being alternate number two, and the most senior appointee being alternate number one. One member and one alternate shall be appointed for terms of one year, one member and one alternate shall be appointed for two years, and one member and one~~

alternate shall be appointed for three years. Each year thereafter, the grand jury of each county shall select one member and one alternate for three-year terms.

~~(3) If a vacancy occurs on the county board of equalization, the individual designated as alternate one shall then serve as a member of the board of equalization for the unexpired term. If a vacancy occurs among the alternate members, the grand jury then in session or the next grand jury shall select an individual who is otherwise qualified to serve as an alternate member of the county board of equalization for the unexpired term. The individual so selected shall become alternate member three, and the other two alternates shall be redesignated appropriately.~~

~~(4) Within five days after the names of the members and alternate members of the county board or boards of equalization have been selected, the clerk of the superior court shall issue and deliver to the sheriff or deputy sheriff a precept containing the names of the persons so selected. Within ten days of receiving the precept, the sheriff or deputy sheriff shall cause the persons whose names are written on the precept to be served personally or by leaving the summons at their place of residence. The summons shall direct the persons named on the summons to appear before the clerk of the superior court on a date specified in the summons, which date shall not be later than December 15.~~

~~(5) Each member and alternate member of the county board of equalization, on the date prescribed for appearance before the clerk of the superior court and before entering on the discharge of such member and alternate member's duties, shall take and subscribe before the clerk of the superior court the following oath:~~

~~'You shall faithfully and impartially discharge the duty of members and alternate members of the board of equalization for the County of \_\_\_\_\_, in accordance with the Constitution and laws of this state, to the best of your skill and knowledge. So help you God.'~~

~~In addition to the oath of office prescribed in this paragraph, the judge of the superior court shall charge each member and alternate member of the county board of equalization with the law and duties relating to such office.~~

~~(d) *Duties and powers.*~~

~~(1) The county board of equalization shall hear and determine appeals from assessments and denials of homestead exemptions as provided in subsection (e) of this Code section.~~

~~(2) If in the course of determining an appeal the county board of equalization finds reason to believe that the property involved in an appeal or the class of property in which is included the property involved in an appeal is not uniformly assessed with other property included in the digest, the board shall request the respective parties to the appeal to present relevant information with respect to that question. If the board determines that uniformity is not present, the board may order the county board of tax assessors to take~~

such action as is necessary to obtain uniformity, except that, when a question of county-wide uniformity is considered by the board, the board may order a partial or total county-wide revaluation only upon a determination by a majority of all the members of the board that the clear and convincing weight of the evidence requires such action. The board of equalization may act pursuant to this paragraph whether or not the appellant has raised the issue of uniformity.

~~(3) The board shall establish by regulation procedures, not in conflict with the regulations promulgated by the commissioner pursuant to subparagraph (c)(5)(B) of this Code section, for the conducting of appeals before the board. The procedures shall be entered into the minutes of the board and a copy of the procedures shall be made available to any individual upon request.~~

~~(e)(b) *Appeal.*~~

~~(1)(A)~~ Any resident or nonresident taxpayer may appeal from an assessment by the county board of tax assessors ~~to the county board of equalization or to an arbitrator or arbitrators~~ as to matters of taxability, uniformity of assessment, and value, and, for residents, as to denials of homestead exemptions.

~~(B)(2)~~ In addition to the grounds enumerated in ~~subparagraph (A)~~ paragraph (1) of this subsection, any resident or nonresident taxpayer having property that is located within a municipality, the boundaries of which municipality extend into more than one county, may also appeal from an assessment on such property by the county board of tax assessors ~~to the county board of equalization or to an arbitrator or arbitrators~~ as to matters of uniformity of assessment of their property with other properties located within such municipality, and any uniformity adjustments to the assessment that may result from such appeal shall only apply for municipal ad valorem tax purposes.

~~(C) Appeals to the county board of equalization shall be conducted in the manner provided in paragraph (2) of this subsection. Appeals to an arbitrator or arbitrators shall be conducted in the manner specified in subsection (f) of this Code section. Such appeal proceedings shall be conducted between the hours of 8:00 A.M. and 7:00 P.M. on a business day. Following the notification of the taxpayer of the date and time of their scheduled hearing, the taxpayer shall be authorized to exercise a one-time option of changing the date and time of the taxpayer's scheduled hearing to a day and time acceptable to the taxpayer.~~

~~(2)(A) An appeal shall be effected by mailing to or filing with the county board of tax assessors a notice of appeal within 45 days from the date of mailing the notice pursuant to Code Section 48-5-306 except that for counties or municipal corporations providing for the collection and payment of ad valorem taxes in installments the time for filing the notice of appeal shall be 30 days. A written objection to an assessment of real~~

~~property received by a county board of tax assessors stating the location of the real property and the identification number, if any, contained in the tax notice shall be deemed a notice of appeal by the taxpayer under the grounds listed in paragraph (1) of this subsection. Any such notice of appeal which is mailed pursuant to this subparagraph shall be deemed to be filed as of the date of the United States Postal Service postmark on such notice of appeal. A written objection to an assessment of personal property received by a county board of tax assessors giving the account number, if any, contained in the tax notice and stating that the objection is to an assessment of personal property shall be deemed a notice of appeal by the taxpayer under the grounds listed in paragraph (1) of this subsection. The county board of tax assessors shall review the valuation or denial in question and, if any changes or corrections are made in the valuation or decision in question, the board shall send a notice of the changes or corrections to the taxpayer pursuant to Code Section 48-5-306. Such notice shall also explain the taxpayer's right to appeal to the county board of equalization as provided in subparagraph (C) of this paragraph if the taxpayer is dissatisfied with the changes or corrections made by the county board of tax assessors.~~

~~(B) If no changes or corrections are made in the valuation or decision, the county board of tax assessors shall send written notice thereof to the taxpayer and to the county board of equalization which notice shall also constitute the taxpayer's appeal to the county board of equalization without the necessity of the taxpayer's filing any additional notice of appeal to the county board of tax assessors or to the county board of equalization. The county board of tax assessors shall also send or deliver all necessary papers to the county board of equalization.~~

~~(C) If changes or corrections are made by the county board of tax assessors, the board shall notify the taxpayer in writing of such changes. If the taxpayer is dissatisfied with such changes or corrections, the taxpayer shall, within 21 days of the date of mailing of the change notice, institute an appeal to the county board of equalization by mailing to or filing with the county board of tax assessors a written notice of appeal. Any such notice of appeal which is mailed pursuant to this subparagraph shall be deemed to be filed as of the date of the United States Postal Service postmark on such notice of appeal. The county board of tax assessors shall send or deliver the notice of appeal and all necessary papers to the county board of equalization.~~

~~(D) The written notice to the taxpayer required by this paragraph shall contain a statement of the grounds for rejection of any position the taxpayer has asserted with regard to the valuation of the property. No addition to or amendment of such grounds as to such position shall be permitted before the county board of equalization or in any arbitration proceedings.~~

~~(3) In any year in which no county-wide revaluation is implemented, the county board of tax assessors shall make its determination and notify the taxpayer within 180 days after receipt of the taxpayer's notice of appeal. If the county board of tax assessors fails to respond to the taxpayer within such 180-day period during such year, the appeal shall be automatically referred to the county board of equalization. This paragraph shall not apply to any county whose digest for the current year cannot be approved by the commissioner pursuant to subsection (a) of Code Section 48-5-304.~~

~~(4) The determination by the county board of tax assessors of questions of factual characteristics of the property under appeal, as opposed to questions of value, shall be prima-facie correct in any appeal to the county board of equalization. However, the board of tax assessors shall have the burden of proving their opinions of value and the validity of their proposed assessment by a preponderance of evidence.~~

~~(5)(A) The county board of equalization shall determine all questions presented to it on the basis of the best information available to the board.~~

~~(B) The commissioner, by regulation, may adopt uniform procedures and standards which, when approved by the State Board of Equalization, shall be followed by county boards of equalization in determining appeals.~~

~~(6)(A) Within 15 days of the receipt of the notice of appeal, the county board of equalization shall set a date for a hearing on the questions presented and shall so notify the taxpayer and the county board of tax assessors in writing. A taxpayer may appear before the board concerning any appeal in person, by his or her authorized agent or representative, or both. The taxpayer shall specify in writing to the board the name of any such agent or representative prior to any appearance by the agent or representative before the board.~~

~~(B) Within 30 days of the date of notification to the taxpayer of the hearing required in this paragraph but not earlier than 20 days from the date of such notification to the taxpayer, the county board of equalization shall hold such hearing to determine the questions presented.~~

~~(C) If more than one contiguous property of a taxpayer is under appeal, the board of equalization shall, upon request of the taxpayer, consolidate all such appeals in one hearing and render separate decisions as to each parcel or item of property. Any appeal from such a consolidated board of equalization hearing to the superior court as provided in this subsection shall constitute a single civil action, and, unless the taxpayer specifically so indicates in his or her notice of appeal, shall apply to all such parcels or items of property.~~

~~(D)(i) The decision of the county board of equalization shall be in writing, shall be signed by each member of the board, shall specifically decide each question presented~~

by the appeal, shall specify the reason or reasons for each such decision as to the specific issues of taxability, uniformity of assessment, value, or denial of homestead exemptions depending upon the specific issue or issues raised by the taxpayer in the course of such taxpayer's appeal, shall state that with respect to the appeal no member of the board is disqualified from acting by virtue of subsection (j) of this Code section, and shall certify the date on which notice of the decision is given to the parties. Notice of the decision shall be given to each party by sending a copy of the decision by registered or certified mail or statutory overnight delivery to the appellant and by filing the original copy of the decision with the county board of tax assessors. Each of the three members of the county board of equalization must be present and must participate in the deliberations on any appeal. A majority vote shall be required in any matter. All three members of the board must sign the decision indicating their vote.

(ii) Except as otherwise provided in subparagraph (g)(4)(B) of this Code section, the county board of tax assessors shall use the valuation of the county board of equalization in compiling the tax digest for the county for the year in question and shall indicate such valuation as the previous year's value on the property tax notice of assessment of such taxpayer for the immediately following year rather than substituting the valuation which was changed by the county board of equalization.

(iii)(I) If the county's tax bills are issued before the county board of equalization has rendered its decision on property which is on appeal, the county board of tax assessors shall specify to the county tax commissioner the higher of the taxpayer's return valuation or 85 percent of the current year's valuation as set by the county board of tax assessors. This amount shall be the basis for a temporary tax bill to be issued. Such tax bill shall be accompanied by a notice to the taxpayer that the bill is a temporary tax bill pending the outcome of the appeal process. Such notice shall also indicate that upon resolution of the appeal, there may be additional taxes due or a refund issued.

(H) If the final determination of the value on appeal is less than the valuation thus used, the taxpayer shall receive a deduction in such taxpayer's taxes for the year in question. Such deduction shall be refunded to the taxpayer and shall include interest on the amount of such deduction at the same rate as specified in Code Section 48-2-35 which shall accrue from November 15 of the taxable year in question or the date the final installment of the tax was due or was paid, whichever is later. In no event shall the amount of such interest exceed \$150.00.

(HH) If the final determination of value on appeal is greater than the valuation thus used, the taxpayer shall be liable for the increase in taxes for the year in question

286 due to the increased valuation fixed on appeal with interest at the rate as specified  
287 in Code Section 48-2-35. Such interest shall accrue from November 15 of the  
288 taxable year in question or the date the final installment of the tax was due to the  
289 date the additional taxes are remitted, but in no event shall the amount of such  
290 interest exceed \$150.00. Any taxpayer shall be exempt each taxable year from any  
291 such interest owed under this subdivision with respect to such taxpayer's homestead  
292 property.

293 ~~(7) The county governing authority shall furnish the county board of equalization~~  
294 ~~necessary facilities and secretarial and clerical help. The secretary of the county board~~  
295 ~~of tax assessors shall see that the records and information of the county board of tax~~  
296 ~~assessors are transmitted to the county board of equalization. The county board of~~  
297 ~~equalization must consider in the performance of its duties the information furnished by~~  
298 ~~the county board of tax assessors and the taxpayer.~~

299 ~~(8) The taxpayer or his or her agent or representative may submit in support of his or her~~  
300 ~~appeal the most current report of the sales ratio study for the county conducted pursuant~~  
301 ~~to Code Section 48-5-274. The board must consider the study upon any such request.~~

302 ~~(f) Arbitration.~~

303 ~~(1) At the option of the taxpayer an appeal shall be submitted to arbitration.~~

304 ~~(2) Following an election by the taxpayer under paragraph (1) of this subsection, an~~  
305 ~~arbitration appeal shall be effected by the taxpayer's filing a written notice of arbitration~~  
306 ~~with the county board of tax assessors. The notice of arbitration shall specifically state~~  
307 ~~the grounds for arbitration. The notice shall be filed within 45 days from the date of~~  
308 ~~mailing the notice pursuant to Code Section 48-5-306 except that for counties or~~  
309 ~~municipal corporations providing for the collection and payment of ad valorem taxes in~~  
310 ~~installments the time for filing the notice of appeal shall be 30 days. The county board~~  
311 ~~of tax assessors shall certify to the clerk of the superior court the notice of arbitration and~~  
312 ~~any other papers specified by the person seeking arbitration including, but not limited to,~~  
313 ~~the staff information from the file used by the county board of tax assessors. All papers~~  
314 ~~and information certified to the clerk shall become a part of the record on arbitration.~~  
315 ~~Within 15 days of the filing of the certification to the clerk of the superior court, the judge~~  
316 ~~shall issue an order authorizing the arbitration and appointing a referee.~~

317 ~~(3) The arbitration of the correctness of the decision of the county board of tax assessors~~  
318 ~~shall be conducted pursuant to the procedures outlined in Article 2 of Chapter 9 of Title~~  
319 ~~9 with the following exceptions:~~

320 ~~(A) If both parties agree, the matter may be submitted to a single arbitrator. If both~~  
321 ~~parties agree, the referee may serve as the single arbitrator;~~

~~(B) If the parties do not agree to a single arbitrator, then three arbitrators shall hear the appeal. Such arbitrators shall be appointed as provided in Code Section 9-9-67. If one or both parties are unable to select an arbitrator, the appeal shall be heard by a single arbitrator who shall be appointed by the judge of the superior court as provided in Code Section 9-9-67;~~

~~(C) In order to be qualified to serve as an arbitrator, a person must be at least a registered real estate appraiser as classified by the Georgia Real Estate Appraisers Board;~~

~~(D) The arbitrator or a majority of the arbitrators, as applicable, within 30 days after their appointment shall render a decision regarding the correctness of the decision of the county board of tax assessors and, if correction of the decision is required, regarding the extent and manner in which the decision should be corrected. The decision of the arbitrator or arbitrators, as applicable, may be appealed to the superior court in the same manner as a decision of the board of equalization;~~

~~(E) The taxpayer shall be responsible for the fees and costs of such taxpayer's arbitrator and the county shall be responsible for the fees and costs of such county's arbitrator. The two parties shall each be responsible for one-half of the fees and costs of the third arbitrator. In the event the appeal is submitted to a single arbitrator, the two parties shall each be responsible for one-half of the fees and costs of such arbitrator; and~~

~~(F) The board of tax assessors shall have the burden of proving their opinions of value and the validity of their proposed assessment by a preponderance of evidence.~~

~~(g) Appeals to the superior court.~~

~~(1) The taxpayer or, except as otherwise provided in this paragraph, the county board of tax assessors may appeal decisions of the county board of equalization, the arbitrator, or the arbitrators, as applicable, to the superior court of the county in which the property lies. A county board of tax assessors may not appeal a decision of the county board of equalization changing an assessment by 15 percent or less unless the board of tax assessors gives the county governing authority a written notice of its intention to appeal and within ten days of receipt of the notice the county governing authority by majority vote does not prohibit the appeal. In the case of a joint city-county board of tax assessors, such notice shall be given to the city and county governing authorities, either of which may prohibit the appeal by majority vote within the allowed period of time.~~

~~(2) An appeal by the taxpayer as provided in paragraph (1) of this subsection shall be effected by mailing to or filing with the county board of tax assessors a written notice of appeal. Any such notice of appeal which is mailed pursuant to this paragraph shall be deemed to be filed as of the date of the United States Postal Service postmark on such notice of appeal. An appeal by the county board of tax assessors shall be effected by~~

giving notice to the taxpayer. The notice to the taxpayer shall be dated and shall contain the name and the last known address of the taxpayer. The notice of appeal shall specifically state the grounds for appeal. The notice shall be mailed or filed within 30 days from the date on which the decision of the county board of equalization is mailed pursuant to subparagraph (c)(6)(D) of this Code section or within 30 days from the date on which the arbitration decision is rendered pursuant to subparagraph (f)(3)(D) of this Code section, whichever is applicable. The county board of tax assessors shall certify to the clerk of the superior court the notice of appeal and any other papers specified by the person appealing including, but not limited to, the staff information from the file used by either the county board of tax assessors or the county board of equalization. All papers and information certified to the clerk shall become a part of the record on appeal to the superior court. At the time of certification of the appeal, the county board of tax assessors shall serve the taxpayer or his or her attorney or agent of record with a copy of the notice of appeal and with the civil action file number assigned to the appeal. Such service shall be effected in accordance with subsection (b) of Code Section 9-11-5. No discovery, motions, or other pleadings may be filed by the county board of tax assessors in the appeal until such service has been made.

(3) The appeal shall constitute a de novo action. The board of tax assessors shall have the burden of proving their opinions of value and the validity of their proposed assessment by a preponderance of evidence. Upon a failure of the board of tax assessors to meet such burden of proof, the court may, upon motion or sua sponte, authorize the finding that the value asserted by the taxpayer is unreasonable and authorize the determination of the final value of the property.

(4)(A) The appeal shall be heard before a jury at the first term following the filing of the appeal unless continued by the court upon a showing of good cause. If only questions of law are presented in the appeal, the appeal shall be heard as soon as practicable before the court sitting without a jury. Each hearing before the court sitting without a jury shall be held within 40 days following the date on which the appeal is filed with the clerk of the superior court. The time of any hearing shall be set in consultation with the taxpayer and at a time acceptable to the taxpayer between the hours of 8:00 A.M. and 7:00 P.M. on a business day.

(B)(i) The county board of tax assessors shall use the valuation of the county board of equalization in compiling the tax digest for the county. If the final determination of value on appeal is less than the valuation set by the county board of equalization, the arbitrator, or the arbitrators, as applicable, the taxpayer shall receive a deduction in such taxpayer's taxes for the year in question. Such deduction shall be refunded to the taxpayer and shall include interest on the amount of such deduction at the same

rate as specified in Code Section 48-2-35 which shall accrue from November 15 of the taxable year in question or the date the final installment of the tax was due or was paid, whichever is later. In no event shall the amount of such interest exceed \$150.00.

(ii) If the final determination of value on appeal is 80 percent or less of the valuation set by the county board of equalization as to commercial property, or 85 percent or less of the valuation set by the county board of tax assessors as to other property, the taxpayer, in addition to the interest provided for by this paragraph, shall recover costs of litigation and reasonable attorney's fees incurred in the action. This division shall not apply when the property owner has failed to return for taxation the property that is under appeal.

(iii) If the final determination of value on appeal is greater than the valuation set by the county board of equalization, the arbitrator, or the arbitrators, as applicable, the taxpayer shall be liable for the increase in taxes for the year in question due to the increased valuation fixed on appeal with interest at the same rate as specified in Code Section 48-2-35. Such interest shall accrue from November 15 of the taxable year in question or the date the final installment of tax was due to the date the additional taxes are remitted, but in no event shall the amount of such interest exceed \$150.00. Any taxpayer shall be exempt each taxable year from any such interest owed under this subparagraph with respect to such taxpayer's homestead property.

(h) In the course of any assessment, appeal, or arbitration, or any related proceeding, the taxpayer shall be entitled to make audio recordings of any interview with any officer or employee of the taxing authority relating to the valuation of the taxpayer's property subject to such assessment, appeal, arbitration, or related proceeding, at the taxpayer's expense and with equipment provided by the taxpayer, and no such officer or employee may refuse to participate in an interview relating to such valuation for reason of the taxpayer's choice to record such interview.

(i) *Alternate members.* Alternate members of the county board of equalization in the order in which selected shall serve:

(1) As members of the county board of equalization in the event there is a permanent vacancy on the board created by the death, ineligibility, removal from the county, or incapacitating illness of a member or by any other circumstances. An alternate member who fills a permanent vacancy shall be considered a member of the board for the remainder of the unexpired term;

(2) In any appeal with respect to which a member of the board is disqualified and shall be considered a member of the board; or

(3) In any appeal at a regularly scheduled or called meeting in the absence of a member and shall be considered a member of the board.

~~(j) Disqualification.~~

~~(1) No member of the county board of equalization shall serve with respect to any appeal concerning which he or she would be subject to a challenge for cause if he or she were a member of a panel of jurors in a civil case involving the same subject matter.~~

~~(2) The parties to an appeal to the county board of equalization shall file in writing with the appeal, in the case of the person appealing, or, in the case of the county board of tax assessors, with the certificate transmitting the appeal, questions relating to the disqualification of members of the county board of equalization. Each question shall be phrased so that it can be answered by an affirmative or negative response. The members of the county board of equalization shall, in writing under oath within two days of their receipt of the appeal, answer the questions and any question which may be adopted pursuant to subparagraph (e)(5)(B) of this Code section. Answers of the county board of equalization shall be part of the decision of the board and shall be served on each party by first-class mail. Determination of disqualification shall be made by the judge of the superior court upon the request of any party when the request is made within two days of the response of the board to the questions. The time prescribed under subparagraph (e)(6)(A) of this Code section shall be tolled pending the determination by the judge of the superior court.~~

~~(k) Compensation. Each member of the county board of equalization shall be compensated by the county per diem for time expended in considering appeals. The compensation shall be paid at a rate of not less than \$25.00 per day and shall be determined by the county governing authority. The attendance at required approved appraisal courses shall be part of the official duties of a member of the board, and he or she shall be paid for each day in attendance at such courses and shall be allowed reasonable expenses necessarily incurred in connection with such courses. Compensation pursuant to this subsection shall be paid from the county treasury upon certification by the member of the days expended in consideration of appeals.~~

~~(l) Military service. In the event of the absence of an individual from such individual's residence because of duty in the armed forces, the filing requirements set forth in subparagraph (e)(2)(A) of this Code section and paragraph (2) of subsection (f) of this Code section shall be tolled for a period of 90 days. During this period any member of the immediate family of the individual, or a friend of the individual, may notify the tax receiver or the tax commissioner of the individual's absence due to military service and submit written notice of representation for the limited purpose of the appeal. Upon receipt of this notice, the tax receiver or the tax commissioner shall initiate the appeal.~~

~~(m) In the event a refund is owed to the taxpayer, such refund shall be paid to the taxpayer within 60 days of the last date upon which an appeal may be filed, or the date the final~~

determination of value is established on appeal, whichever is later. Any refund paid after the sixtieth day shall accrue interest from the sixtieth day until paid with interest at the same rate as specified in Code Section 48-2-35.

(c) For purposes of determining fair market value in the event of an appeal by the taxpayer, the county shall obtain an appraisal valuation and shall provide such appraisal valuation to the taxpayer in a written appraisal report documenting the fair market value of the property, subject to the following conditions:

(1) If the taxpayer disagrees with the county's appraisal valuation, then the taxpayer, within 45 days of receipt of the county's appraisal report, may obtain a separate appraisal valuation; otherwise, the county's appraisal valuation shall become the valuation of the property for purposes of this chapter;

(2) If the taxpayer obtains an appraisal valuation under this subsection within 45 days of receipt of the county's appraisal report and if the difference between the taxpayer's appraisal valuation and the county's appraisal valuation is 20 percent or less, then the valuation of such property for the purpose of any appeal shall be the taxpayer's appraisal valuation; provided, however, that before the taxpayer's appraisal valuation shall become effective, the taxpayer shall provide the taxpayer's appraisal valuation to the county via certified mail, return receipt requested, via priority mail, delivery confirmation requested, or via statutory overnight delivery; and

(3) If the difference between the taxpayer's appraisal valuation and the county's appraisal valuation exceeds 20 percent and if the county does not agree to the valuation determined by the taxpayer's appraisal valuation, then the county and taxpayer shall agree to an arbitrator or shall apply to the superior court of the county, on a form approved by the clerk of the court, to appoint an arbitrator. The cost of the application shall be borne by the county, shall be established by the clerk of the superior court of each county, and such cost shall not exceed \$50.00. The arbitrator shall be appointed by the court to select which of the two appraisal valuations is closer to the fair market value of the property, and the closer appraisal valuation shall become the valuation of the property for purposes of the appeal. The cost for the service of the arbitrator shall be borne equally by the taxpayer and by the county.

(d) Any valuation determined on appeal under this Code section shall be contingent upon the purchase being a bona fide, arm's length transaction. The county shall be permitted to challenge whether a purchase of property was a bona fide, arm's length transaction under the following conditions:

(1) Where the purchase was made, directly or indirectly, by a person or by an entity controlled by such person or in which such person has a 20 percent or greater interest in the purchasing entity, which person is an immediate family member of the seller or, in

507 the case of a seller that is an entity, by a person who is an immediate family member of  
508 a person who controls or who has a 20 percent or greater ownership interest in the selling  
509 entity;  
510 (2) Where the purchase was made for less than 75 percent of fair market value; or  
511 (3) Where a taxpayer purchases or otherwise acquires property as the result of a  
512 foreclosure."

513 **SECTION 2.**

514 All laws and parts of laws in conflict with this Act are repealed.